

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Wassim Abedrabbo	Team: Squad #9	CCRB Case #: 201805529	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/26/2018 12:16 AM	Location of Incident: [REDACTED]	Precinct: 09	18 Mo. SOL 11/26/2019	EO SOL 11/26/2019	
Date/Time CV Reported Sat, 07/07/2018 7:41 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 07/07/2018 7:41 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. LT James Lee	00000	930421	009 PCT
2. POM David Tague	03566	953464	009 PCT
3. An Officer			009 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Louis Guglielmo	00489	930285	009 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT James Lee	Abuse: At § 87(2)(b) in Manhattan, Lieutenant James Lee threatened § 87(2)(b) with the use of force.	[REDACTED]
B.LT James Lee	Abuse: At § 87(2)(b) in Manhattan, Lieutenant James Lee frisked § 87(2)(b)	[REDACTED]
C. An Officer	Abuse: At the 9th Precinct stationhouse, an officer searched the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
D.POM David Tague	Abuse: At the 9th Precinct stationhouse, Police Officer David Tague damaged § 87(2)(b)'s property.	[REDACTED]

Case Summary

On July 7, 2018, § 87(2)(b) filed this complaint via the CCRB's on-line complaint system.

On May 26, 2018, at approximately 12:16 a.m., § 87(2)(b)'s vehicle was stopped at the intersection of § 87(2)(b) in Manhattan, by Lieutenant James Lee and Police Officer David Tague, both of the 9th Precinct, for having an LED light bar emitting from the inside of his black 2013 Mercedes Benz. After the officers approached, § 87(2)(b) asked Lieutenant Lee why his shield did not have a number on it. In response, Lieutenant Lee opened the driver door of § 87(2)(b)'s vehicle and yelled at § 87(2)(b) to exit the vehicle, stating that he would pull him out if he did not (**Allegation A: Abuse of Authority – Threat of force,** § 87(2)(g)). After § 87(2)(b) exited the vehicle, Lieutenant Lee frisked his person (**Allegation B: Abuse of Authority – Frisk,** § 87(2)(g)).

§ 87(2)(b) was ultimately placed in custody and transported to the 9th Precinct stationhouse. Upon being released approximately three hours later, § 87(2)(b) was issued two summonses, one for disorderly conduct and the second for having an unauthorized light emitting from the vehicle. When § 87(2)(b) returned to his vehicle, he saw that his vehicle was allegedly searched and that the cigarette lighter socket was allegedly pulled out and broken (**Allegation C: Abuse of Authority – Vehicle search,** § 87(2)(g)). (**Allegation D: Abuse of Authority – Property damage,** § 87(2)(g)).

Video footage was not obtained in relation to this investigation.

On July 27, 2018, this case was closed pending litigation; however, it was reopened on September 25, 2018.

Findings and Recommendations

Allegation (A) Abuse of Authority: At § 87(2)(b) **in Manhattan, Lieutenant James Lee threatened** § 87(2)(b) **with the use of force.**
Allegation (B) Abuse of Authority: At § 87(2)(b) **in Manhattan, Lieutenant James Lee frisked** § 87(2)(b)

It is undisputed that Lieutenant Lee threatened § 87(2)(b) with force after requesting § 87(2)(b)'s license and registration; however, it is disputed whether the threat was justified. It is also undisputed that § 87(2)(b) was placed in custody and taken to the 9th Precinct stationhouse, where he was issued a summons for disorderly conduct.

During his CCRB statement, § 87(2)(b) stated that as he was retrieving the documents, he asked PO Tague for his name and shield number (**Board Review 01**). PO Tague presented his shield number, and as § 87(2)(b) wrote it down he looked over to Lieutenant Lee and asked him why his shield did not have a number. Within five seconds of asking Lieutenant Lee the question, Lieutenant Lee walked over to § 87(2)(b)'s door, opened it, and yelled at § 87(2)(b) to get out of the vehicle or he would pull him out. § 87(2)(b) got out of the vehicle on his own, at which time Lieutenant Lee frisked § 87(2)(b).

Lieutenant Lee stated that after their request for § 87(2)(b)'s license and registration, he began erratically yelling curse words and threats of lawsuits (**Board Review 02**). The officers requested the license and registration “numerous times,” but § 87(2)(b) continued the behavior. Because § 87(2)(b) continued the behavior, causing a crowd of bystanders to form, Lieutenant Lee told § 87(2)(b) to exit his vehicle as he was going to be arrested for disorderly conduct. When § 87(2)(b) did not comply, Lieutenant Lee told § 87(2)(b) that if he did not exit the

vehicle he would be arrested by “force.” At that time, Lieutenant Lee already decided that § 87(2)(b) was going to be placed in custody and taken to the 9th Precinct stationhouse. Lieutenant Lee frisked § 87(2)(b).

PO Tague provided a statement that was consistent with Lieutenant Lee, except where noted below. (**Board Review 03**). PO Tague stated that after § 87(2)(b) did not comply with their orders to provide ID, he was asked to step out of the vehicle and did so voluntarily. Force was not necessary to get § 87(2)(b) out of the vehicle. PO Tague did not mention that Lieutenant Lee threatened to use force against § 87(2)(b).

In the narrative section of the summons issued to § 87(2)(b) PO Tague noted that § 87(2)(b) was screaming and using profanity in the middle of a public street causing a crowd to gather and creating a hazardous condition at the location (**Board Review 04**).

Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. **Patrol Guide Procedure 221-01 (Board Review 07)**.

An officer must immediately frisk an apprehended individual after they are taken into custody. **Patrol Guide Procedure 208-03 (Board Review 08)**.

§ 87(2)(b), § 87(2)(g)

Allegation (C) Abuse of Authority: At the 9th Precinct stationhouse, an officer searched the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that § 87(2)(b)'s vehicle was taken to the precinct stationhouse after he was placed in NYPD custody.

§ 87(2)(b) stated that upon returning to his vehicle, his belongings in the glove compartment, center console, and trunk were scattered and disorganized. Because § 87(2)(b) keeps his belongings in an orderly fashion, this led him to believe that his vehicle was searched. § 87(2)(b) did not see any officer search his vehicle (**Board Review 01**).

PO Tague stated that he entered the vehicle solely to remove the LED light. He did not otherwise search the vehicle in any way and he did not see any other officer search the vehicle at any point (**Board Review 03**).

Lieutenant Lee stated that he did not enter § 87(2)(b) vehicle at any point to search it or take any action otherwise. He did not have any discussion with any officer regarding § 87(2)(b)'s vehicle being searched and he did not learn that an officer searched § 87(2)(b)'s vehicle at any point (**Board Review 02**).

§ 87(2)(b), § 87(2)(g)

Allegation (D) Abuse of Authority: At the 9th Precinct stationhouse, Police Officer David Tague damaged § 87(2)(b)'s property.

- 201607870 involved substantiated allegations of premises entered, abuse – other, and a stop against Lieutenant Lee. The Board recommended command discipline B and the NYPD imposed formalized training.
- PO Tague has been a member of service for six years and this is the first CCRB complaint to which he has been a subject (see officer history).

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of May 10, 2019, the NYC Comptroller’s Office has no record of a Notice of Claim being filed in regards to this complaint (**Board Review 10**).
- § 87(2)(b)

Squad No.: 09

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date